REMARKS

This responds to the Office Action mailed on July 13, 2006.

Claims 17-27, 29, 31 and 33 are amended, no claims are canceled or added; as a result claims 1-33 remain pending in this application.

§112 Rejection of the Claims

Claims 17-33 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 17-27, 29, 31 and 33 are amended to clarify the term "computer program product". The claim now includes the term "computer-readable storage medium" and basis for this is clearly found in the claims prior to amendment and in the application as filed (e.g., Figure 5 shows RAM 504, ROM 506, a floppy disk 528, and a hard disk drive 524).

It is thus submitted that this rejection has been overcome and withdrawal thereof is earnestly requested.

§101 Rejection of the Claims

Claims 1-33 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

The Office Action states that "[t]he various steps in the method set forth in the claims are nothing more than steps performed on a computer thus making them abstract ideas." Applicant points out that this in itself is not a valid rejection of the claims.

"The focus of the inquiry is whether the claim, considered as a whole, constitutes "a practical application of an abstract idea." State Street, 149 F.3d at 1373, 47 USPQ2d at 1600. (See also the Interim Guidelines at page 37). The subject matter of the present claims is not abstract and the claims, considered as a whole, are a practical application of a new and non-obvious "real-world" sample rate conversion process. Further Applicant points out that "[i]n determining whether the claim is for a "practical application," the

focus is not on whether the steps taken to achieve a particular result are useful, tangible

and concrete, but rather that the final result is useful, tangible and concrete." AT&T, 172

F.3d at 1358, 50 USPQ2d at 1451. (See also the Interim Guidelines at page 37).

The Office Action further alleges that Claims 1-22 do not comply with the

following two considerations in the Interim Guidelines:

> 1.) The claimed invention "transforms" an article or physical object to a different
> state or thing.
> 2.) The claimed invention otherwise produces a useful, concrete and tangible
> result...

(See page 3 of the Office Action)

Applicant submits that the invention claimed in Claims 1-33 complies with both

the above requirements.

THE CLAIMED INVENTION TRANSFORMS AN INPUT SIGNAL AT AN INPUT SAMPLE RATE TO ONE OF A PLURALITY OF DIFFERING INTENDED OUTPUT SAMPLE RATES

It is submitted that Claim 1 clearly transforms or converts an *input signal* at an

input sample rate to one of a plurality of differing intended *output sample rates*. A

practical application of this physical transformation is, for example, shown in Figure 6

which shows a block diagram of a sample rate converter, and in Figure 5 which shows a

signal processing system.

THE CLAIMED INVENTION PRODUCES A USEFUL, CONCRETE AND TANGIBLE RESULT

MPEP §2106 in addressing patentable subject matter under 35 USC §101 for

computer-related inventions states as follows:

> The claimed invention *as a whole* must accomplish a practical application.... The
> claimed invention *as a whole* must produce a "useful, concrete and tangible"
> result to have a practical application.... **Only when the claim is devoid of any
> limitation to a practical application in the technological arts should it be
> rejected under 35 U.S.C. §101.**

The Office action alleges that the "also do not provide a useful tangible output.

Applicant submits that the claimed invention *as a whole* produces a concrete result.

Claim 1 reads in part as follows:

A method for converting an **input signal** at an input sample rate to one of
a plurality of differing intended output sample rates, the method comprising:
receiving, at the input sample rate, a plurality of data points, associated
with the **input signal**;
operating on said plurality of data points ....; and
for said plurality of data points, controllably converting said input sample
rate to any one of said plurality of differing intended output sample rates ....

by converting said input sample rate associated with said **input signal** to
any one of the plurality of differing intended **output sample rates** by
interpolation with an interpolator implementing an interpolation equation and
having associated therewith a second transition band,

with the width associated with said second transition band being a
function of a spectral separation of said first transition band and said image, and
wherein **an output signal is produced** having a sequence of data samples
approximating the input signal.

Clearly, in the claim 1, *when viewed as a whole,* an **input signal** at an input

sample rate is **converted to an output signal** at a different sample rate.

In view of the above it is submitted the invention, as claimed, falls within

both safe harbors defined in the interim guidelines. The invention as claimed transforms

and input signal to an output signal having a different sample rate and produces a useful

tangible output.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 408-278-4041 to facilitate prosecution of this application.
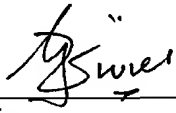
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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This paper or fee is being filed on the date indicated above using the USPTO's electronic filing system EFS-Web, and is addressed to The Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.